

Applicants :	TAN et al.	Atty. Dkt. No.	: 1189-PCT-US
USSN	: 10/578,762	Art Unit	: 3732
Filed	: December 19, 2006	Date of office action	: April 14, 2008
Examiner	: Heidi M. Bashaw	Date of response	: August 14, 2008
Page	: 6		

REMARKS

Objections to the Drawings

In the Final Office Action of April 14, 2008, the drawings were objected to as failing to comply with 37 CFR 1.84(p)(5) which states that "Reference characters not mentioned in the description shall not appear in the drawings. Reference characters mentioned in the description must appear in the drawings." The Final Office Action specifically objected to the insertion of reference character "5".

In the Amendment in Response to October 30, 2007 Office Action, filed January 30, 2008, Applicants enclosed amended Figures 1-6 including reference character "5" and also included amendments filed with the IPEA for Australia showing that no new matter was added.

In a telephone conversation with the Examiner on August 14, 2008, the undersigned attorney's office discussed with the examiner the stated failure of the drawings to comply with the above-referenced rule. Examiner Bashaw stated that the mention of errors in the drawings was itself an error in the final Office Action; she also stated that she had taken notice of our replacement drawings, that they were acceptable, and that had been entered. Therefore, Applicants submit that no further issues remain with regard to the submitted figures.

Claim Status

Claims 1-10 are currently pending. Claims 1 and 5 are currently amended.

Applicants :	TAN et al.	Atty. Dkt. No.	:	1189-PCT-US	
USSN	:	10/578,762	Art Unit	:	3732
Filed	:	December 19, 2006	Date of office action	:	April 14, 2008
Examiner	:	Heidi M. Bashaw	Date of response	:	August 14, 2008
Page	:	7			

Rejection under 35 U.S.C. § 102(b)

1. Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Meritt (U.S. Patent 5,174,754). This rejection is respectfully traversed.

2. With respect to claim 1, the Examiner has paraphrased Meritt in her rejection, stating that the prior art discloses "a base 14 portion adapted for bonding to a surface of a tooth, a body portion extending from the base portion and having an archwire receiving means and a first narrowing 20 forming a neck portion with the base portion 14 and provided substantially rear of the archwire receiving means, the archwire receiving means having a slot 18 substantially adapted to receive a portion of an archwire and having an opening comprising a second narrowing portion 22 which is narrower than the slot as illustrated in figs. 1-2." [Emphasis added]

Independent claims 1 and 5 have been amended so that the language "substantially rear of" has been removed. However, Applicants herein address the substance of the Examiner's rejection of the claims as previously noted.

Applicants hereby maintain in light of amended claim 1, that the Meritt reference is not anticipating because Meritt's first narrowing 20 is different from the present invention in three aspects.

Aspect 1: First narrowing on different planes.

With regard to the first aspect, the first narrowing of the present invention (5) (as shown in Figure 3 of the present application) is provided rear of the archwire receiving means wherein the locations of the archwire receiving means' plane and

Applicants : TAN et al.	Atty. Dkt. No.	: 1189-PCT-US
USSN : 10/578,762	Art Unit	: 3732
Filed : December 19, 2006	Date of office action	: April 14, 2008
Examiner : Heidi M. Bashaw	Date of response	: August 14, 2008
Page : 8		

the first narrowing's plane are indicated. Hence, it may be seen from a comparison of the drawings below that the first narrowing plane of the present invention is at the rear of the archwire receiving means.

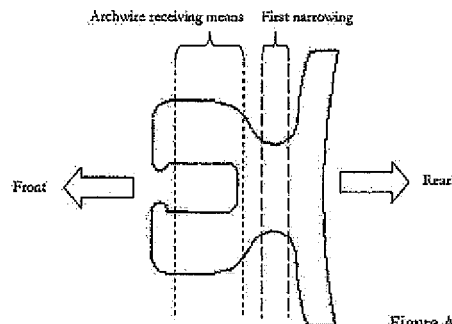


Figure A - Our invention

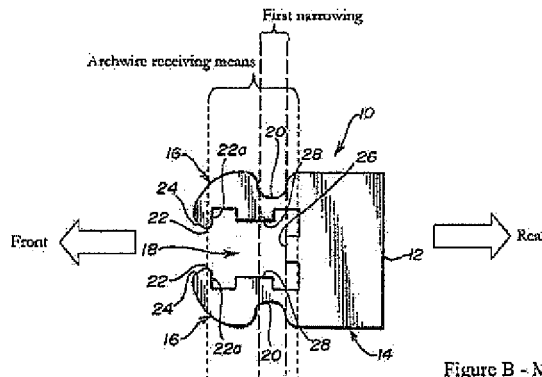


Figure B - Meritt

From the above comparison of the respective features' planes in the drawings of Meritt and the present invention, it may be seen that Meritt's first narrowing is not "substantially rear of the archwire receiving means" as alleged by the Examiner but is at the same plane or within the same plane as the archwire receiving means. Accordingly, this feature of the present invention - namely, the first narrowing provided rear of the archwire receiving means, or as per the presently amended version of Claim 1, i.e. the first narrowing provided between the archwire

Applicants :	TAN et al.	Atty. Dkt. No.	: 1189-PCT-US
USSN	: 10/578,762	Art Unit	: 3732
Filed	: December 19, 2006	Date of office action	: April 14, 2008
Examiner	: Heidi M. Bashaw	Date of response	: August 14, 2008
Page	: 9		

receiving means and the base portion, is sufficient to distinguish over Meritt.

Aspect 2: Creation of neck portion between archwire receiving means and base portion.

The second differentiating aspect is that Meritt's first narrowing does not create a neck portion in between the archwire receiving means and the base portion but only causes narrowing on each of the upper and lower tieings (16) of its archwire receiving means.

Aspect 3: Increase in tieings' flexure at point 20.

The third differentiating aspect, as a consequence of the above-referenced features, is that the narrowing at 20 of the respective tieings increases the tieings' flexure at that point and thus eases the tieings' outward flexure to allow an archwire to be inserted into slot 18, which unfortunately also works to ease the archwire to be taken out of slot 18 by the very same flexure.

Furthermore, the Examiner has stated that the neck disclosed by Meritt is "substantially" rear of the archwire receiving means. Applicants have argued that the neck disclosed by Meritt "is provided on or about the same plane as the archwire slot." With respect to the objection that the word "substantially" is a synonym for "about," Applicants would like to point out that the more accurate meaning of "substantially" is "of substance", "essentially", "importantly" or "significantly".¹ Accordingly, this word is essential in defining the position of the first narrowing as essentially rear of the archwire receiving means rather than at "about" or the same position or plane as the archwire receiving means at the Examiner has made it out to be.

¹ See entry for "Substantial." Merriam-Webster Online Dictionary. 2008, retrieved online August 8, 2008; <<http://www.merriam-webster.com/dictionary/substantial>>

Applicants :	TAN et al.	Atty. Dkt. No.	: 1189-PCT-US
USSN	: 10/578,762	Art Unit	: 3732
Filed	: December 19, 2006	Date of office action	: April 14, 2008
Examiner	: Heidi M. Bashaw	Date of response	: August 14, 2008
Page	: 10		

4. In respect of the objections against claims 2 to 4 concerning the second narrowing feature, Applicants point out that as the narrowing feature of the main independent claim (Claim 1) has been differentiated over Meritt, these dependent claims are patentable as well.

5. In respect of the objections against claim 5, claim 5 has been amended in the same manner as claim 1. As can be seen from the similarity of claim 5 with claim 1, the difference in the feature being claimed is that the opening (9) of Claim 5 is enlarged to become broader than slot (3), while for the other features, including the position of the first narrowing or neck portion, the same arguments and submission made in respect of claim 1 is also applicable here.

6. With respect to claims 6 to 8 concerning the enlarged portion, Applicants state that because independent claim 5's first narrowing features have been differentiated over Meritt, the dependent claims would be patentable.

7. With respect to claim 9, this claim is directed to an orthodontic bracket which relies on the presently amended claim 1 which, having now been differentiated over Meritt, would render claim 9 patentable.

8. With respect to the method of claim 10, as it depends on independent claim 1 which has now been differentiated over Meritt, Applicants now submit that claim 10 is patentable as well.

Accordingly, applicant respectfully submits that the invention as claimed in the amended set of claims are novel and inventive over the prior art and entry of the amended claims is respectfully requested.

Applicants :	TAN et al.	Atty. Dkt. No.	: 1189-PCT-US
USSN	: 10/578,762	Art Unit	: 3732
Filed	: December 19, 2006	Date of office action	: April 14, 2008
Examiner	: Heidi M. Bashaw	Date of response	: August 14, 2008
Page	: 11		

Conclusion

Applicants respectfully maintain that all grounds of rejection raised in the April 14, 2008 Final Office Action have been addressed and urge the Examiner to render favorable action for the claimed invention.

If a telephone interview would be of assistance in advancing the prosecution of the subject application, the Applicants' undersigned attorney invites the Examiner to telephone him at the number provided below. If any additional fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 50-1891.

Respectfully submitted,

Albert Wai Kit Chan

Albert Wai-Kit Chan

Registration No. 36,479

Attorney for Applicants

Law Offices of

Albert Wai-Kit Chan, PLLC

World Plaza, Suite 604

141-07 20th Avenue

Whitestone, New York 11357

Tel: (718) 799-1000

Fax: (718) 357-8615

Email:chank@kitchanlaw.com